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**SS & E Electric, Inc. and International Brotherhood of Electrical Workers, Local 26, AFL-CIO.** Case 5-CA-29814

April 21, 2003

**DECISION AND ORDER**

BY MEMBERS LIEBMAN, SCHAUMLER, AND WALSH

The General Counsel seeks summary judgment in this case on the ground that the Respondent has failed to file an answer to the complaint. Upon a charge filed by the Union on June 19, 2001, the General Counsel issued the complaint on September 12, 2001 against SS & E Electric, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the Act. The Respondent failed to file an answer.

On November 19, 2001, the General Counsel filed a Motion for Summary Judgment with the Board. On November 23, 2001, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively states that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated November 2, 2001, notified the Respondent that unless an answer was received by November 9, 2001, a motion for summary judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a Maryland corporation, has been an electrical contractor with its principal office and place of business located in Accokeek,

Maryland. During the 12-month period preceding issuance of the complaint, a representative period, the Respondent, in conducting its business operations, performed services valued in excess of \$50,000 in states other than the State of Maryland. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that International Brotherhood of Electrical Workers, Local 26, AFL-CIO is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

The employees of the Respondent, as described in the collective-bargaining agreement effective by its terms from June 1, 2000, to May 31, 2003, constitute a unit (the unit) appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

Since about November 18, 1996, the Union has been the designated exclusive collective-bargaining representative of the unit and, during that time, the Union has been recognized as the representative by the Respondent. This recognition has been embodied in a series of collective-bargaining agreements, most recently in an agreement effective by its terms from June 1, 2000, to May 31, 2003. Since about November 18, 1996, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about May 8, 2001, by letter of that same date, the Union has requested that the Respondent furnish the Union with information pertaining to the business operations of SS & E Electric, Inc. and Potomac Electric. The information requested by the Union is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about May 8, 2001, the Respondent has failed and refused to furnish the Union with the information it requested.

**CONCLUSION OF LAW**

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its unit employees, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

**REMEDY**

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed to provide requested information to the Union that is necessary and relevant to

the performance of its duties as the exclusive collective-bargaining representative of the unit employees, we shall order the Respondent to provide the information requested by the Union in its letter dated May 8, 2001.

### ORDER

The National Labor Relations Board orders that the Respondent, SS & E Electric, Inc., Accokeek, Maryland, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to furnish International Brotherhood of Electrical Workers, Local 26, AFL-CIO, with information that is relevant and necessary to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit employees, as described in the collective-bargaining agreement effective from June 1, 2000 to May 31, 2003.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Union with the information it requested on May 8, 2001, pertaining to the business operations of SS & E Electric, Inc. and Potomac Electric.

(b) Within 14 days after service by the Region, post at its facility in Accokeek, Maryland, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since May 8, 2001.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Dated, Washington, D.C. April 21, 2003

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Wilma B. Liebman, Member

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Peter C. Schaumber, Member

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Dennis P. Walsh, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

### APPENDIX

#### NOTICE TO EMPLOYEES

#### POSTED BY ORDER OF THE

#### NATIONAL LABOR RELATIONS BOARD

#### An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to furnish International Brotherhood of Electrical Workers, Local 26, AFL-CIO, with information that is relevant and necessary to the union's performance of its duties as the exclusive collective-bargaining representative of the unit employees, as described in the collective-bargaining agreement effective from June 1, 2000, to May 31, 2003.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by section 7 of the act.

WE WILL furnish the Union with the information it requested on May 8, 2001, pertaining to the business operations of SS & E Electric, Inc. and Potomac Electric.

SS & E ELECTRIC, INC.